

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

AUGUSTOVSKY MARK A#028-156-896

Plaintiff-Petitioner

vs.

Case No. 2:09-CV-4251

[Insert Name] HOLDER, in his/her
official capacity as Warden, [Detention Center]
Robert J. Bigott Warden, Bergen County Jail
HACKENSACK, NJ 07601, [City] New Jersey;
SCOTT A. WEBER, his official capacity as
Newark Field Office Director for Detention and
Removal; JOHN T. MORTON, in his official
capacity as Acting Assistant Secretary of U.S.
Immigration and Customs Enforcement;
JANET NAPOLITANO, in her official capacity
as the Secretary of the U.S. Department of
Homeland Security; and ERIC HOLDER, in his
official capacity as Attorney General of the U.S.
Department of Justice

Defendants-Respondents.

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AT 8:30 _____ PM
WILLIAM T. WALSH, CLERK

APPLICATION FOR ISSUANCE OF ORDER TO SHOW CAUSE

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to Respondents, requiring them to show cause why Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (filed herewith) should not be granted.

2. Petitioner challenges his continued detention by the U.S. Immigration and Customs Enforcement (ICE) in violation of the Immigration and Nationality Act (INA) and his constitutional right to due process.

3. Petitioner seeks his immediate release from custody under reasonable conditions of supervision or, in the alternative, a constitutionally adequate hearing where Respondents must demonstrate that any continued detention of Petitioner is justified.

4. The federal habeas corpus statute provides that “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

5. Section 2243 further provides that the writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.”

6. Section 2243 further provides that the court shall hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed.”

7. Section 2243 further provides that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.”

8. Pursuant to 28 U.S.C. § 2243, and in light of the fact that he has been detained for 22 months [Insert period of time], Petitioner respectfully requests that the Court immediately issue an Order to Show Cause against the Respondents.

9. Petitioner further requests pursuant to 28 U.S.C. § 2243 that the Court require Respondents to file a return within three days of the Court's order, showing cause, if any, why the writ of habeas corpus should not be granted.

Dated: 11/18/09

Respectfully submitted,

028-156-896

[insert your name and A #]

Bergen County Jail

160 South River Street

Hackensack, NJ 07601

[insert your address]

THE BERGEN COUNTY JAIL
DISCLOSED NOR INSPECTED
HEREFORE, THE SHERIFF'S DEPT.
DOES NOT ASSUME RESPONSIBILITY
FOR THE CONTENTS.

MARK AUGUSTOVSKY

Bergen County Jail
100 S. River Street
Hackensack, NJ 07601

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NOV 19 2009

Clerk AT 8:30
WILLIAM T. WALSH, CLERK M



U.S. District Court for the District of New Jersey

MARTIN Luther King Building 8 U.S. Court house

50 Walnut Street Room 4015

Newark, NJ 07101

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